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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Dietrich Klingler

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EXAMINER

OREILLY, PATRICK F

ART UNIT

PAPER NUMBER

3749

MAIL DATE

DELIVERY MODE

03/21/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/578,908	Applicant(s) KLINGLER ET AL.	
	Examiner Patrick F. O'Reilly III	Art Unit 3749	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 November 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 May 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to applicant's amendment received on November 28, 2007.

Specification

2. Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and **legal phraseology** often used in patent claims, such as "means" and "**said**," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

3. The abstract of the disclosure is objected to because it uses legal phraseology, such as "said" and "comprising". The Applicants have indicated in their Remarks that a replacement abstract was submitted with their response. However, no replacement abstract has been received. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. **Claims 1-3, 5-6, and 9-11** are rejected under 35 U.S.C. 102(b) as being anticipated by Bieri (US 6,004,203). The specification and the drawings in the Bieri reference disclose all of the elements recited in **claims 1-3, 5-6, and 9-11** of this application.

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6. Specifically, in regard to claim 1, the Bieri reference discloses all of the claimed elements, including: at least one nozzle (recess 5 is in the form of a converging-diverging nozzle – Fig. 9) disposed at one end of a flow duct (5, 6, and the circumferential flow passage disposed around the outer periphery of recess 5) and a grille (porous insert 7) disposed in a cover plate (panel 3) at the nozzle (5) outlet, wherein the grille (7) partially conceals the nozzle (5) outlet and there is a gap (12) between the grille (7) and the cover plate (frame 8 of the panel 3) planarly disposed with the grille (7); and wherein the flow duct comprises an outer part flow duct (circumferential flow passage disposed around the outer periphery of recess 5 and upstream of gap 12) and an inner part flow duct (6), wherein the outer part flow duct provides a diffuse flow path (as shown by airflow arrows 4 in Fig. 9, which point in various directions) and the inner part flow duct (6) is approximately straight. Refer to Bieri, Figure 9; column 3, lines 33-36 and 48-51; column 4, lines 11-13; and column 5, lines 33-61. Therefore, because all of the elements in claim 1 of this application are disclosed by the Bieri reference, this claim is rejected in accordance with 35 U.S.C. 102(b).

7. In regard to claim 2, Bieri further discloses that the grille (porous insert 7) conceals the nozzle (5) outlet in a central region. See Bieri, Figure 9. Thus, Bieri meets the language of this claim.

8. In regard to claim 3, Bieri further discloses that the gap (12) is a circumferential gap provided around the grille (porous insert 7). Refer to Bieri, Figure 9 and column 4, lines 11-13. Consequently, the Bieri reference also meets the language set forth in claim 3.

9. In regard to claim 5, Bieri further discloses that the grille (porous insert 7) is substantially nontransparent in configuration (the porous insert 7 consists of a porous support covered by a

textile material, which is substantial nontransparent). See Bieri, Figure 9 and column 3, lines 48-51. Therefore, Bieri also meets the language set forth in this claim.

10. In regard to claim 6, Bieri further discloses that the grille (porous insert 7) is mesh-like in configuration (the textile material of the porous insert 7 is mesh-like). Refer to Bieri, Figure 9 and column 3, lines 48-51. Thus, Bieri meets the language set forth in claim 6.

11. In regard to claim 9, Bieri further discloses that the grille (porous insert 7), at the left and/or right ends, is semicircular in configuration (as shown in Fig. 9, the porous insert 7 has a semi-circular cross-section). See Bieri, Figure 9. Consequently, the Bieri reference also meets the language set forth in this claim.

12. In regard to claim 10, Bieri further discloses that the nozzle array (device 1 with nozzle 5) is part of a ventilation system (heating, ventilating, and air conditioning system (HVAC) system in a vehicle). Refer to Bieri, column 1, lines 6-8 and column 3, lines 22-26. Therefore, Bieri also meets the language set forth in claim 10.

13. In regard to claim 11, Bieri further discloses that the ventilation system (heating, ventilating, and air conditioning system (HVAC) system) is in a motor vehicle. See Bieri, column 1, lines 6-8 and column 3, lines 22-26. Thus, Bieri meets the language of this claim.

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. **Claim 4** is rejected under 35 U.S.C. 103(a) as being unpatentable over Bieri (US 6,004,203). The specification and the drawings in the Bieri reference disclose all of the elements recited in **claim 4**, except for the grille being rectangular in configuration, which is an obvious change in the shape of the grille disclosed in Bieri.

16. In particular, claim 4 of this application is obvious in light of Bieri. This reference discloses all of the elements of this claim, except for the grille being rectangular in configuration. However, it has been held that, “absent persuasive evidence that [a] particular configuration of the claimed [invention] is significant”, a mere change in the configuration (shape) of an invention is “a matter of choice which a person of ordinary skill in the art would find to be obvious”. Refer to MPEP § 2144.04(IV)(B) (quoting *In re Dailey*, 357 F.2d 669, 149 USPQ 47 (CCPA 1966)). In this case, the applicant has not provided any persuasive evidence that a grille having a rectangular configuration will produce a significantly different result than a grille having a semi-circular configuration as disclosed in Bieri. Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide a grille having either a rectangular configuration or a semi-circular configuration because a grille of either configuration would promote the gentle and inconspicuous dispersion of air in the passenger compartment of a vehicle. Refer to Bieri, column 1, lines 50-58.

17. **Claims 1 and 8** are rejected under 35 U.S.C. 103(a) as being unpatentable over Japanese Patent No. 59215533 A (“JP ‘533”) in view of Bieri (US 6,004,203). These two references, when considered together, teach all of the elements recited in **claims 1 and 8** of this application.

18. In particular, claim 1 of this application is obvious when the JP ‘533 reference is viewed in light of Bieri. The JP ‘533 reference discloses the invention substantially as claimed,

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including: at least one nozzle (centrally disposed nozzle bounded by partition walls 1a, 1b, 1d, and 1e and perimeter nozzles disposed between outer wall 1 and partition walls 1a, 1b, 1d, and 1e – Figs. 2 and 3) disposed at one end of a flow duct (duct 5, which is subdivided at its discharge end by partition walls 1a, 1b, 1d, and 1e) and a grille (2) disposed in a cover plate (formed by the peripheral lip of outer wall 1 – Figs. 1 and 2) at the nozzle outlet (grille 2 is disposed at the outlets of both the center and perimeter nozzles), wherein the grille (2) partially conceals the nozzle outlet (grille 2 completely extends over the center and perimeter nozzle outlets as shown in Fig. 1 so as to partially conceal the outlets, while still leaving open flow areas for the discharged air); and wherein the flow duct (5) comprises an outer part flow duct (outer flow passages disposed between outer wall 1 and partition walls 1a, 1b, 1d, and 1e – Figs. 2 and 3) and an inner part flow duct (inner flow passage bounded by partition walls 1a, 1b, 1d, and 1e – Figs. 2 and 3), wherein the outer part flow duct (outer flow passages disposed between outer wall 1 and partition walls 1a, 1b, 1d, and 1e) provides a diffuse flow path (as shown by the airflow arrows in Fig. 5, which point in various directions) and the inner part flow duct (inner flow passage bounded by partition walls 1a, 1b, 1d, and 1e) is approximately straight. Refer to JP ‘533, Figures 1-3 and 5; also refer to previously provided English abstract for JP ‘533.

However, claim 1 of this application further discloses that there is a gap between the grille and the cover plate planarly disposed with the grille. The JP ‘533 reference does not contain this additional limitation.

Bieri, although, teaches nozzle airflow device (1) having a grille (porous insert 7, which consists of a porous support covered by a textile material) disposed in a cover plate (panel 3) at a nozzle (5) outlet, wherein the grille (7) partially conceals the nozzle (5) outlet and there is a gap

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(12) between the grille (7) and the cover plate (frame 8 of the panel 3) planarly disposed with the grille (7) for the purpose of improving the aesthetic appearance of the nozzle airflow device (1) by discretely integrating it into the interior coverings of a vehicle passenger compartment. See Bieri, Figure 9; column 1, lines 53-58; column 3, lines 33-36 and 48-51; column 4, lines 11-13; and column 5, lines 33-61. Therefore, when the JP '533 reference is viewed in light of Bieri, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle airflow device of JP '533 by replacing the grille (2) with a porous textile grille (7) circumscribed by a gap (12), as taught by Bieri, in order to improve the aesthetic appearance of the vehicle airflow device by discretely integrating it into the interior coverings of the vehicle passenger compartment. Refer to Bieri, column 1, lines 53-58.

19. In regard to claim 8, the modified vehicle airflow device of JP '533 reference further teaches that two nozzles (centrally disposed nozzle bounded by partition walls 1a, 1b, 1d, and 1e and top perimeter nozzle disposed between outer wall 1 and partition wall 1a – Figs. 2 and 3) are disposed side by side, which are jointly concealed by the grille (porous textile grille 7 extends over both the center and top perimeter nozzle outlet with the circumferential gap 12 disposed at its periphery so as to jointly, and partially, conceal the outlets). See JP '533, Figures 2-3 and 5; also see Bieri, Figure 9. Therefore, JP '533 in view of Bieri also meets the language of this claim.

20. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Bieri (US 6,004,203) in view of Geromet (US 3,503,320). These two references, when considered together, teach all of the elements recited in **claim 7** of this application.

21. In particular, claim 7 of this application is obvious when Bieri is viewed in light of Geromet. As described above, Bieri discloses all the elements of base claim 1, the claim upon which this claim depends. However, claim 7 of this application further discloses that the nozzle is a swirl nozzle. Bieri does not contain this additional limitation. Geromet, although, teaches an air discharge device having an air passage (1) with a plurality of helically convoluted air-guide blades (4) disposed therein that impart a swirling or twisting motion on the air discharged from the device for the purpose of assuring a better admixture with the air already present in the space that is being served. Refer to Geromet, Figure 3; column 2, lines 68-72; and column 2, lines 1-3. Therefore, when Bieri is viewed in light of Geromet, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the nozzle airflow device of Bieri by adding, in the interior of the nozzle (5), a plurality of helically convoluted air-guide blades (4) that impart a swirling motion on the air, as taught by Geromet, in order to assure a better admixture with the air already present in the vehicle compartment that is being served. See Geromet, column 2, line 72; and column 2, lines 1-3.

Response to Arguments

22. Applicant's arguments with respect to pending claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

23. See attached form PTO-892 for additional pertinent prior art, which was not directly relied upon in this action.

24. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrick F. O'Reilly III whose telephone number is (571) 272-3424. The examiner can normally be reached on Monday through Friday, 8:30 am to 5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven B. McAllister can be reached on (571) 272-6785. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Patrick F. O'Reilly III/
Examiner, Art Unit 3749

/Steven B. McAllister/
Supervisory Patent Examiner, Art Unit 3749